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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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February 4, 1999

Via Hand Delivery (between 4:00 p.m. and 5:30 p.m.)

Ms. Magalie Roman Salas

Office of the Secretary

Federal Communications Commission

1919 M Street, NW, Room 222

Washington, DC 20554

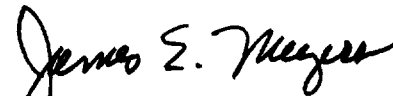
Re: MM Docket No, 97-217 (File No. RM-9060)
Joint Comments of Dallas County Community College District, et al.,
in Partial Opposition to Petitions for Reconsideration

Dear Ms. Salas:

Transmitted herewith on behalf of Dallas County Community College District, Tarrant County Junior College District, Richardson Independent School District and Education Service Center Region 10 are an original and eleven copies of their Joint Comments in Partial Opposition to Petitions for Reconsideration in the matter above captioned.

Should you have any questions, please contact the undersigned.

Very Truly Yours,



James E. Meyers

Matthew C. Wagner

Counsel for:

Dallas County Community College District

Tarrant County Junior College District

Richardson Independent School District

Education Service Center Region 10

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List ABCDE

cc: Michael J. Jacobs
ITS, Inc.

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FEB 4 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Parts 1, 21 and 74 to Enable)	MM Docket No. 97-217
Multipoint Distribution Service)	
and Instructional Television Fixed)	File No. RM-9060
Service Licensees To Engage in Fixed)	
Two-Way Transmissions)	

JOINT COMMENTS OF DALLAS COUNTY COMMUNITY COLLEGE
DISTRICT, TARRANT COUNTY JUNIOR COLLEGE DISTRICT,
RICHARDSON INDEPENDENT SCHOOL DISTRICT, AND EDUCATION
SERVICE CENTER REGION 10 IN PARTIAL OPPOSITION TO PETITIONS
FOR RECONSIDERATION

Respectfully Submitted By:

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SUMMARY

These comments in partial opposition to the Petitions for Reconsideration oppose relaxation of the notification and professional installation requirements with respect to response station activation within 1960 feet of the ITFS receive site. Relaxed notification and professional installation requirements are not opposed if they are as follows:

- Notification and professional installation requirements should remain required for all response stations operating at above -6 dBW and located within 150 feet of the ITFS receive site, subject to the Qualcomm proposal, discussed in following item.

- For response stations operating at -6 dBW or less (pursuant to the Qualcomm plan), no notice would be required for non adjacent or non cochannel response station operations within 150 feet of the ITFS receive site provided that the response station upgrades the downconverter of the ITFS site (as described in the “Petitioners” proposal); for such response stations, no professional installation would be required.
- For response stations located between 150 feet and 1960 feet of the ITFS receive site, no notice would be required for non-adjacent or non-cochannel response station operations at +18dBW or less subject to the requirement to upgrade the downconverter of the ITFS site (as described in the “Petitioners” proposal) unless the response station is operating at -6 dBW or less (pursuant to the Qualcomm plan) in which case no downconverter upgrade would be required.
- Except for response station operations at -6 dBW or less (per the Qualcomm plan), professional installation should remain required.
- All cochannel and adjacent channel operations shall continue to be subject to notification and professional installation requirements, including those within 1960 feet of the ITFS receive site operating at -6 dBW or less (including under the Qualcomm plan).
- The required contents of the notice should remain required; in addition the notice should also contain the additional information (advanced by “Petitioners”), namely, the identification of the affected ITFS receive site and the identification of the response station hub (advanced by “Petitioners”).
- The notice period should remain at 20 days.

- ITFS licensees should be allowed to consent to activation of the response station without the required notice so long as the consent is affirmatively stated in a signed writing.
- ITFS licensees should be allowed to consent to response station installations that are not professional installations, where professional installation is otherwise required, so long as such consent is affirmatively stated in a signed writing.
- Required notification and protection should continue to apply to all registered ITFS sites (built and unbuilt) and ITFS site registrations applied for prior to the response station application.

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SERVICE CENTER REGION 10 IN PARTIAL OPPOSITION TO PETITIONS
FOR RECONSIDERATION**

Dallas County Community College District ("Dallas County"), Tarrant County Junior College District ("Tarrant County"), Richardson Independent School District ("Richardson ISD") and Education Service Center Region 10 ("Region 10")(collectively, the "Joint Commenters"), through undersigned counsel, submit their comments in partial opposition to the Petitions for Reconsideration ("Petition(s)") to the Commission's Report and Order in the above-captioned proceeding, FCC 98-231 ("Order"). The Joint Commenters are local educational institutions that, collectively, are ITFS licensees of 27 channels in the Dallas-Fort Worth, TX Metroplex.¹

¹Dallas County is the licensee of WNC 582, Channels A1 and A2, and WHR 830, Channels G1-G3, Dallas, TX; Tarrant County is the licensee of WHR 506, Channels A1-A4, Fort

I. INTRODUCTION

The Joint Commenters have consistently lent their support to the concept of two-way fixed ITFS service operations, likewise consistently voicing their concern with interference issues. Here, as in their earlier filings, the Joint Commenters remain concerned with the potential for interference to their ITFS receive sites from fixed two-way operations under the rules as presently promulgated. As discussed below, the Petitioners now seek to lower even further the minimum interference protection requirements and recourse to address the same that were established in the Order.

II. THERE SHOULD BE NO CHANGES IN NOTIFICATION REQUIREMENTS AND CONTENTS OF SUCH NOTICES EXCEPT THAT: (i) NO NOTICE SHOULD BE REQUIRED FOR NON-ADJACENT OR NON-COCHANNEL RESPONSE STATIONS LOCATED BETWEEN 1960 FEET AND 150 FEET OF AN ITFS RECEIVE SITE AND WHICH RESPONSE STATION OPERATES AT BETWEEN +18 dBW AND -6 dBW, WHERE THE DOWN CONVERTER AND RECEPTION ANTENNAS SUPPRESS SUCH SIGNALS IN AN AMOUNT OF +4 dBm MINUS THE DOWNCONVERTER MAXIMUM INPUT POWER CAPABILITY MINUS THE SUM OF THE POWER OF THE DESIRED SIGNALS, AS DISCUSSED BELOW; (ii) NOTICE AND DOWNCONVERTER UPGRADE SHOULD BE REQUIRED FOR NON-COCHANNEL AND NON-ADJACENT CHANNEL RESPONSE STATIONS LOCATED

Worth, TX; Region 10 is the licensee of WHR 695, Channels C1-C4, Ennis, TX and WHR 718, Channels G1-G4, McKinney, TX; Richardson ISD is the licensee of WHR 881, Channels D1-D4, Fort Worth, TX, WHR 882, Channels A3 and A4, Dallas County, TX, and WEF 69, Channels B1-B4, Dallas County, TX.

WITHIN 150 FEET OF AN ITFS RECEIVE SITE WHICH IS TO OPERATE AT MORE THAN -6dBW; (iii) NO NOTICE OR DOWNCONVERTER UPGRADE SHOULD BE REQUIRED FOR NON-ADJACENT OR NON-COCHANNEL RESPONSE STATIONS LOCATED WITHIN 150 AND 1960 FEET OF AN ITFS RECEIVE SITE AND WHICH RESPONSE STATION OPERATES AT -6 dBW OR LESS (UNDER THE QUALCOMM PLAN); AND (iv) NO NOTICE BUT DOWNCONVERTER UPGRADE SHOULD BE REQUIRED FOR SUCH RESPONSE STATIONS OPERATING AT -6 dBW OR LESS (UNDER THE QUALCOMM PLAN) WITHIN 150-FEET OF THE ITFS RECEIVE SITE, AS DISCUSSED BELOW

A. NOTICE SHOULD STILL BE REQUIRED IN CONTEXT OF WIRELESS AND QUALCOMM PETITIONS

The rule changes advanced by the original petitioners to the rulemaking (“Wireless Petitioners”) and Qualcomm Incorporated (“Qualcomm”) would do away with any preactivation notice requirement for non-adjacent and non-cochannel response stations where the station is located within 1960 feet of the ITFS receive site where (as proposed by Wireless Petitioners) the response station is to operate at +18 dBW or less and if the ITFS downconverter and, if necessary, reception antennas suppress or are upgraded to suppress the signals equal to or greater than +4 dBm minus the downconverter maximum input power capability minus the sum of the power of the desired signals (Wireless Petition at Appendix A, page viii, containing requested amendments to Rule Section 74.939(n) [Sic.? (p)] (3)) or, with respect to non-cochannel or non-adjacent

channel operations, where a new class of response station is established to operate at -6dBW or less as specified (Qualcomm Petition at 13).

Joint Commenters oppose a total elimination of required notice prior to response station activation under these Petitioners' scenarios. Rather, the notice requirements should remain in effect with downconverter upgrade requirements within a zone of 150 feet of the ITFS receive site. Under the scheme advanced by Wireless Petitioners, at +18 dBW with improved downconverters, the potential for interference still exists at a real-distance of 50 feet from the receive site. Because receive site and response locations are specified in coordinates rounded to the nearest whole second, theoretically the response antenna could be located right next to the ITFS receive site even though the coordinates of the response station are different from the coordinates of the ITFS station by one second of latitude/longitude.² Therefore, a buffer of an additional 100 feet is necessary, so that notification and downconverter upgrade under Wireless Petitioners' proposed scenario would be required prior to activation of any response station located within 150 feet of the ITFS receive site.³

²The response station could be located, for example, at the extreme west end of the "second" and the ITFS receive site could be located west of the response station at the extreme east end of the "second."

³See preceding footnote. Absent a mechanism by which response station operators can demonstrate by certification to the Commission that it determined the real-distance from the

With respect to Qualcomm's proposed establishment of a new class of response stations operating at -6 dBW or less under the parameters proposed by it, Joint Commenters have no objection on a potential interference basis, and, accordingly, do not object in principle to removing the notice requirement with respect to non-adjacent and non-cochannel operations at -6 dBW or less as proposed by Qualcomm,⁴ provided that the licensee or operator of any such response station located within the 150-foot zone provide the upgraded downconverter equipment along the same lines as for response stations to operate between +18 dBW and -6 dBW.

B. CONTENTS OF REQUIRED NOTICES SHOULD REMAIN UNCHANGED *EXCEPT* THAT WIRELESS PETITIONERS' SUBSTITUTE INFORMATION SHOULD BE ADDED

Wireless Petitioners advance eliminating the required content of the notices except for the name and telephone number of the response station's contact person. Instead it would add the identification of the affected ITFS receive site and the associated response station hub (if any) (Wireless Petition at 15-16). It is indispensable that the information presently required in the notices

receive site to the response station, the buffer zone is required to accommodate distance calculations based on coordinates only, such as, from a data base.

⁴Joint Commenters oppose any elimination of notice requirements with respect to cochannel or adjacent channel response station operations, even at -6 dBW or less.

remain required,⁵ in addition to the information Wireless Petitioners would add. Since response stations “associated” with a response station hub are not required to be licensed individually, preactivation notice is the only opportunity extended to an ITFS licensee to ascertain whether the response station is likely to cause potential interference or, if actual interference subsequently results, to be able to identify quickly and with reasonable precision the likely source of the interference. In the case of potential interference to the receive site, the ITFS licensee would have an opportunity to not only assess the interference potential, but to address it either unilaterally with respect to its receive site or bilaterally with the response station operator thereby being able to avoid the occurrence of actual interference upon commencement of response station operations. In the case of actual interference, the ITFS licensee would be able to quickly assess the source of the interference rather than having to rely solely upon the dispatch with which the hub station operator identifies the offending response station and corrects the problem, if possible, all the while leaving the ITFS licensee with objectionable interference.

⁵Current rule section 74.939(p) requires that the notice contain “the street address and geographic coordinates (to the nearest second) of the response station, a specification of the station’s EIRP, antenna pattern/orientation/height AMSL, channel(s) to be used, as well as the name and telephone number of a contact person who will be responsible for coordinating the resolution of any interference problems.”

Wireless Petitioners advance the exaggerated claim that it is not possible to determine, prior to activation, the EIRP, AMSL height, polarization, antenna pattern, orientation and channels used (Wireless Petition at 16). This notion is not defensible. Such information can be reliably estimated prior to installation at the site, particularly with respect to polarization, EIRP, channel(s) utilized and orientation, and particularly in a consumer environment where standardized response transmission equipment will likely be used and in relation to the location of the hub response station.

Petitioners' privacy concerns with providing street addresses and coordinates are likewise exaggerated (Wireless Petition at 16; San Francisco-San Jose Educator/Operator Consortium at 6-7). Even Wireless Petitioners offer that "if block downconverter overload occurs thereafter, the ITFS licensee will know where to turn" (Wireless Petition at 15). Wireless operators are not the only users of spectrum, and, with limited exception⁶, eligible ITFS licensees are not organized for profit. Moreover, in light of the relatively limited notification scenarios as discussed herein, the likelihood of dissemination of the notice to any

⁶47 C.F.R. § 74.990 permits wireless cable operators to be ITFS licensees of unapplied-for frequency subject to providing access to the channels to local educational entities. Even in this limited scenario, the "ITFS" licensee would stand in no different shoes than, for example, competing two-way MMDS licensees.

one other than the provider of the notice is extremely remote.

Notification of both street address and coordinates is as essential to identifying quickly the source of potential interference as is the technical information required in the notice, i.e., EIRP, AMSL height, polarization, antenna pattern, orientation and channels to be used. This technical information is of no avail if the ITFS licensee does not know where the response station is located.

Reliance solely on the name and phone number of the response hub licensee (or the licensed response station licensee) again places the ITFS licensee at the dispatch of the response station operator. The ITFS licensee is left with no option than to call the noticed number for more details, experience delay at the expense of the notice period while the operator responds (hopefully, but not likely in an expeditious fashion in light of inter alia the scores of response stations that reasonably may be anticipated for association with a single response station hub), and await the information that the rules now require to be provided in the first instance.

While the Joint Commenters appreciate the asserted inconvenience of providing the notice information, the fact is that both ITFS licensees and response station operators share licensed spectrum. Providing adequate means

to prevent interference from occurring is a higher concern.

C. THE 20-DAY NOTICE PERIOD SHOULD NOT BE SHORTENED

Wireless Petitioners and other Petitioners advance shortening the notice from 20 days to one day (Wireless Petition at 14-17; C&W Enterprises, Inc. (“C&W”) Petition at ¶4; Region IV Educational Service Center et al. (“Region IV” at ¶7); Qualcomm Petition at 8-10, 13). Their main concern is that the 20-day notice requirement will place wireless cable operations at a competitive disadvantage. While there may be anomalies in a given market that go to their concerns with a competitive disadvantage, the concern itself is not appropriate to consider displacing ITFS licensees’ expectations that they have tools available to utilize their spectrum interference-free.⁷ Moreover, in most situations, the response station operator will be the wireless cable operator who in turn is the ITFS licensee’s lessee with attendant accommodation to these competition concerns already addressed.⁸

⁷Moreover, their concerns are not grounded solely in response operations, and the “competing” technologies are not analogous inasmuch as none inherently have the shared-spectrum type considerations present as are in the ITFS/MMDS services. By that same token, Wireless Petitioners’ analogy to competing ISM Band transmissions overlooks the low power limitation and spread spectrum transmission requirement. 47 C.F.R. § 15.247.

⁸As discussed in Part IV, Infra., Joint Commenters do not oppose Wireless Petitioners’ request that ITFS licensees may affirmatively consent to activation of response stations without the required notice.

D. PROFESSIONAL INSTALLATION OF RESPONSE STATIONS
SHOULD BE REQUIRED *EXCEPT* WHERE RESPONSE
OPERATIONS WILL BE AT - 6dBW OR LESS AS ADVANCED
BY QUALCOMM

In promulgating the professional installation requirement, the Commission concluded from the record that

[g]iven the interference environment in which response stations will operate, we do not believe it would be prudent to permit them to be installed by nonprofessionals with no knowledge of the protection requirements for nearby ITFS receive sites.

Order at ¶52. Wireless Petitioners advance a lessening of the scope and application of the professional installation requirement for response stations (Wireless Petition at 8, 9, 12). Joint Commenters agree with Wireless Petitioners that there could be some relaxation of the professional installation requirement for response stations. However, professional installation of response stations should continue to be required in all events where the response station is to operate at more than -6 dBW.⁹ In all events, the response station hub (or response station) licensee should remain responsible for the quality of the installation and its compliance with its license.

⁹The special class of response stations proposed by Qualcomm are essentially temporary fixed ITFS response stations. Joint Commenters have no objection to non-professional installation with respect to such non-adjacent and non-cochannel response stations that are operating at -6dBW or less.

III. ITFS LICENSEES SHOULD BE ALLOWED TO CONSENT TO THE ACTIVATION OF RESPONSE STATIONS WITHOUT THE REQUIRED NOTICE AND TO CONSENT TO A “NON” PROFESSIONAL INSTALLATION

Joint Commenters support Wireless Petitioners’ proposal to allow ITFS licensees to consent to response station activation without the required notice, so long as such consent is affirmatively stated in a signed writing. Similarly, but independently, ITFS licensees should be allowed to consent to response station installations that are not professional installations, where professional installations are otherwise required, so long as such consent is affirmatively stated in a signed writing.

IV. NOTIFICATION AND PROTECTION SHOULD EXTEND TO ALL REGISTERED RECEIVE SITES AND ALL PREVIOUSLY FILED APPLICATIONS FOR REGISTRATION, AS PROVIDED IN THE CURRENT RULES

Wireless Petitioners urge limiting the notice requirement to receive sites that have been “registered and constructed” prior to the response station application (Wireless Petition at 9 (Emphasis added)). This limitation should be rejected. It disrupts ITFS planning and budgeting as well as expenditures in progress, potentially freezing deployment of previously registered or applied-for registrations. Moreover, dispensation with any notification requirement for previously-applied-for registrations or registered and unbuilt sites would not

provide those facilities with notice of cochannel or adjacent channel response station operations or attendant overload in nonco- or nonadjacent channel environment(s). How can ITFS operators of planned sites (either applied for or registered) anticipate interference of any kind, particularly with respect to adjacent and co-channel response station operations? The proposed installation of “modern downconverters” offered by Wireless Petitioners as a solution belies the overreaching import of the limitation to the rules Wireless Petitioners advance since upgraded downconverters address only overload interference.

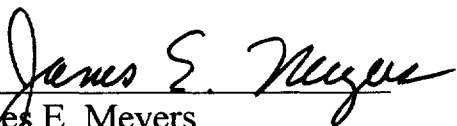
Although the Commission should not amend its rules with respect to pre-existing ITFS receive site registrations (irrespective of whether the receive site has been built), it should clarify them in this regard as requested by Petitioner Catholic Television Network (“CTN”) (Petition of CTN at 9-10) and with respect to response stations as well.

V. CONCLUSION


In light of the above, the Petitions should be denied consistent with the refinements and considerations set forth herein.

Respectfully Submitted,

DALLAS COUNTY COMMUNITY COLLEGE DISTRICT
TARRANT COLLEGE JUNIOR COLLEGE DISTRICT
RICHARDSON INDEPENDENT SCHOOL DISTRICT
EDUCATION SERVICE CENTER REGION 10

By: 
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CERTIFICATE OF SERVICE

I, Matthew C. Wagner, hereby certify that on this 4th day of February, 1999, I served by First Class U.S. Mail, postage pre-paid, a true copy of the foregoing Partial Opposition to Petitions for Reconsideration, on the following:

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